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PACIFIC TELESIS
Group-Washington

June 30, 1994

William F. Caton
Acting Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Dear Mr. Caton:

Re: *Pacific Bell Petition for Rulemaking to amend Section 69.106 of the Commission's Rules*

On behalf of Pacific Bell, please find enclosed an original and six copies of its *"Petition For Rulemaking"* in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,

Jo Ann Goddard

Enclosures

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Pacific Bell Petition for Rulemaking to amend Section 69.106 of the Commission's Rules	)

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JUN 30 1994
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

PETITION FOR RULEMAKING

I. INTRODUCTION

Pacific Bell hereby petitions the Commission to open a rulemaking proceeding to amend section 69.106 of the Commission's Rules relating to the local switching rate element. Pacific Bell requests the rulemaking so that the switched access local switching rate will encompass a per-message call setup charge in addition to the per minute usage charge.

In this petition, we will show that the current rate structure, mandating a minute of use rate, creates an uneconomic scheme, such that long calls subsidize short calls. We will demonstrate that the network is currently being used in a very different way than it was when access charges were originally crafted. Short transaction processing calls, less than 1 minute in duration, have undergone explosive growth, and we have reason to believe this growth will continue. We will show the effect that short calls have on our costs and on the network. And, we will show why it is in the public interest to amend section 69.106.

Section 69.106(a) of the Commission's Rules[1] contains the requirements for the local switching rate element. It states that:

> charges that are expressed in dollars and cents per access minute of use shall be accessed [sic] upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign service.

The remainder of Section 69.106 contains the methodology to be used to compute the local switching charge; however, such methodology has been largely superseded by operation of the price cap rules (see 61.43(e)(1)).

The local switching rate element compensates the local exchange carrier for all local switching costs. These are costs associated with setting up the signalling portion of the call (call setup), and call maintenance costs (which are tied to call duration). Call setup costs are independent of the length of a call. Each and every call incurs the costs of a call setup, regardless of the duration of the call.

II. DEVELOPMENT OF LOCAL SWITCHING RATE

Because Part 69 requires local switching to be charged on a per minute of use basis, Pacific developed its current rate using the average length of a call. That average length is 3.86 minutes. Calls less than 3.86 minutes generally do not recover their costs; calls longer than 3.86 over-recover their costs. The Part 69 rules relating to the local switching rate element

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[1] 47 C.F.R. § 69.106(a).

were put into place in 1984, yet the telecommunications market today is drastically different from the market in 1984.

Technological breakthroughs have encouraged the use of the public switched network in ways hardly thought of in the early '80s. The market is much more competitive now than it was, customers have choices for their telecommunications needs, regulatory emphasis is on having the cost causer incur the costs (as opposed to spread among all ratepayers), and price cap regulation has been instituted for the large carriers to encourage efficiency, innovation, and competition.

III. PROLIFERATION OF SHORT CALLS

In the last ten years the types of calls placed over the public switched network have changed dramatically. Fax machines have grown widely in use, and many calls placed to and from fax machines are short-burst, one page fax transmissions. In just one year, from 1989 to 1990, the growth in fax machines at small businesses in California was 93%, while the growth in the number of machines in all California business was 43%.[2] Paging has also increased dramatically with paging becoming common for home use as well as business.[3] The biggest change in the last ten years has been in credit card and check verification techniques. Most merchants today have credit card swipe terminals, which are used to validate credit card transactions.

[2] Communications Week, June 4, 1990, p. 26, "Small Firms Embrace Faxing."

[3] "Wireless Phone, Pager Sales to Quadruple, Near $10 Billion by 1999, Led by New Consumer, Retail Buyers," PR Newswire, February 18, 1994.

These calls are typically extremely short, taking only 10 to 20 seconds per call.

The credit card transaction processors have acknowledged that the types of calls they use are substantially shorter than one minute in length. In the course of the 800 Data Base proceeding, the transaction providers stated:

> Many data providers utilize 800 service for very short transaction processing calls, typically lasting no more than a few seconds.[4]

> High volume users like National Data typically complete four to five calls a minute.[5]

> Transaction processors use 800 service for large numbers of generally very short calls.[6]

> MasterCard and Visa between them receive over half a billion 800 calls per year, with an average duration of 15 to 20 seconds.[7]

The newest form of short transaction call is the debit card transaction. A point of sale debit card is like a plastic check. A customer presents his or her debit card to merchants to pay for the purchase, and the exact amount is withdrawn from the

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4 CompuServe Petition To Reject, Or, In The Alternative, Suspend And Investigate 800 Tariffs, March 18, 1993, p. 13.

5 Consolidated Petition To Reject, Or, In The Alternative, To Suspend And Investigate, March 18, 1993, p. 4.

6 First Financial Management Petition, March 18, 1993, p. 4.

7 Petition Of California Bankers Clearinghouse Association, MasterCard International, New York Clearinghouse and Visa, To Reject, Or, In The Alternative, Suspend And Investigate 800 Tariffs, March 18, 1993, pp. 1-2.

cardholder's checking account through an electronic network linking the store and the bank. Currently, approximately 36 million point of sale debit transactions occur each month. More than half of these are in California.[8] These figures are expected to double by 1996.[9] In 1992 alone, one California debit card system, Star Explore, switched 35 million debit card transactions.[10] That system increased 60.7% from 1992-1993.[11] The banking industry expects these numbers to mushroom in the next six years. American Banker quotes industry sources that say consumers will initiate 450 million transactions per month by June of 2000.[12] While debit cards are the fastest growing segment of the electronic banking industry, credit card transactions still account for billions of transactions every year. There can be no dispute that there are billions more very short calls currently than there were in the past.

IV. DESCRIPTION OF A CALL

Independent of whether a call is long or short in duration, the local switch must establish a call path through the network

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[8] Matt Barthel, "EFT Networks Seen as Driving Point of Sale", American Banker, February 7, 1994, p. 17.

[9] Matt Barthel, "First Data to Buy Ceridian's Telemoney Services", American Banker, March 23, 1994.

[10] "The Local Advantage", Credit Card Management, September 1993, p. 14.

[11] "Networks: Fast POS Growth Now the Rule Beyond California", POS News, September 1, 1993.

[12] Matt Barthel, "EFT Networks Seen as Driving Point of Sale", American Banker, February 7, 1994, p. 17, quoting "POS News"; William Dunn, "Easy Money", American Demographics, September 1993, p. 30.

and keep that path open during the course of the call. For call set up, an originating switch must return dial tone, receive digits dialed and consult various tables in the switch to determine the type of call, whether the call is interLATA, and determine to what carrier to send the call. It also needs to determine whether it needs to route the call to an access tandem or whether the carrier has facilities directly from the end office. The switch then needs to find an idle trunk and establish signalling to the carrier alerting the carrier's switch that the call will be coming. The switch then establishes the call path and receives the carrier's acknowledgement of receipt.

During the duration of the call, the switch simply scans the call periodically to see if the trunk is still busy.

V. EFFECT OF SHORT CALLS ON COSTS

Pacific acknowledges that the proliferation of these new types of short calls increases usage on the public switched network. However, completing a disproportionate number of short calls has competitive implications. It currently costs almost five times more to set up a call than to provide a minute of use. The call set up costs reflect the increased processor involvement in this phase of the call. Currently, the direct cost (plus overheads) to set up a call is $.01621. To keep the call in place costs $.00343 per minute. The local switching rate is $.009953 per minute. Calls less than 1 minute in duration, of which there are millions, do not begin to recover their costs.

For example, if a customer of carrier X generates 3 calls which are 20 seconds in length each, we would combine those seconds in our billing system and bill carrier X for 1 minute (60 seconds) of calls. Thus, carrier X would be billed $.009953 for local switching. Yet, just in call set up costs, those three calls cost Pacific $.04863, nearly five times more than we charge.

As shown above, short calls are proliferating. Companies whose networks use all short calls are therefore being subsidized by customers making long calls. As call duration decreases due to the introduction of new technologies, Pacific may not in the future be able to recover all of its costs using the current switched access rate structure.

VI. RULEMAKING

During its initial consideration of access charge elements, in CC Docket 78-72, the Commission recognized that in the future additional disaggregation of costs might lead to further unbundling of access elements:

> We shall, of course, entertain requests for waiver of the rules prescribing rate structure for specific access elements to permit an exchange carrier...to unbundle an access element into subelements. We would expect the waiver request to include a description of the rate structure the telephone company would propose. We would also require a showing that granting the waiver would in no way undermine any of the policy goals of this proceeding.[13]

In proposing a separate call setup and duration rate, Pacific is simply seeking for the cost causer to pay the

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[13] MTS & WATS Market Structure, 97 F.C.C. 2d 682, 736 (1983).

appropriate amount. The Commission has consistently required access rates to satisfy principles of cost-causation. See, e.g., Provision of Access for 800 Service, 8 FCC Rcd 907, para. 6 ("We required unbundling [of basic 800 service from vertical features] so that only those customers who actually use each service -- those who generate the costs -- pay for it."); see, Access Charge Order, 93 F.C.C. 2d 275, Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards, 8 FCC Rcd 4478 (1993) ("the Commission's policy is that the costs of providing a service should be borne by the cost causers.") See also MTS and WATS Market Structure, 93 F.C.C. 2d 241, 402, recon., 97 F.C.C. 2d 682 (1983), remanded in part sub nom., NARUC v. FCC, 737 F.2d 1095 (D.C. Cir. 1984), cert. denied, 469 U.S. 1227 (1985) ("costs should be assigned to the cost causer in order for society to best utilize its resources"). These principles should encourage the Commission to allow the local switching rate structure to reflect call set up charges as well as minutes of use.

VII. PACIFIC WILL SUFFER HARDSHIP DUE TO UNECONOMIC BYPASS

The deviation from the current rule that Pacific seeks -- charging a flat rated per call setup charge in addition to the per minute of use charge -- will serve the public interest by supporting the goals that the Commission has set forth for maintaining and encouraging a competitive market.

One key policy that the Commission has repeatedly endorsed is that the cost causer should pay for the costs they incur (see above). Our customers who purchase access for long duration calls are paying access charges far in excess of the costs that they have caused. For that reason, those customers have the incentive to move off the public switched network at an artificially low crossover point between switched and special access. Further, today, because the longer duration calls must of necessity subsidize the shorter call, Pacific's customers with longer duration calls are paying more than they, as cost causers, should. Because of this, the crossover point for those customers in going to private line services and abandoning the public switched network is at an artificial level. If cost causers paid for the costs they incur, then customers with longer duration calls will find their access rates decreasing, thus giving them incentive to stay on the public switched network. And, for those customers with many short duration calls, this rate element change simply brings rates in line with cost causation.

If each call recovered the cost of the call setup as well as the cost to maintain the call in place, then each type of access customer's access charges will be rationally related to the costs they incur. While we cannot say with certainty the number of customer who have moved off the public switched network as a result of high local switching costs, we know that we have a very concentrated market which allows alternative providers incentives to lure away our customers. For example, 30% of our business revenue comes from 0.5% of our serving territory located in or near the major downtown areas. 25% of all residential customers generate 75% of our residence intraLATA toll revenues. The competition for that revenue is vigorous and will only get more so. Ensuring that cost causers are paying their fair share of costs will enable Pacific to compete for our customers on a proper economic footing.

VIII. CONCLUSION

Therefore, we respectfully request that the Commission open a rulemaking proceeding to consider changes to the current access charge rate elements for local switching in order to bring the rate structure in line with costs actually incurred.

Respectfully submitted,

PACIFIC BELL

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Date: June 30, 1994

CERTIFICATE OF SERVICE

I, G. R. Harmon, hereby certify that copies of the foregoing PETITION FOR RULEMAKING were served by hand or by United States first-class mail, postage prepaid, upon the parties listed on the attached service list on this 30th day of June, 1994.

GR Harmon

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